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2 CERTIFICATE

3 I, VILMA TORRES, hereby certify that the
 4 Examination Before Trial of RAJAN LAI was held
 5 before me on the 3rd day of May, 2011, that said
 6 witness was duly sworn before the commencement of
 7 the testimony; that the testimony was taken
 8 stenographically by myself and then transcribed by
 9 myself; that the party was represented by counsel as
 10 appears herein;

11 That the within transcript is a true record
 12 of the Examination Before Trial of said witness;
 13 That I am not connected by blood or marriage
 14 with any of the parties; that I am not interested
 15 directly or indirectly in the outcome of this
 16 matter; that I am not in the employ of any of the
 17 counsel.

18 IN WITNESS WHEREOF, I have hereunto set my
 19 hand this day of , 2011.

20

21

 VILMA TORRES

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1
 2 ERRATA SHEET
 3 PAGE/LINE CORRECTION

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Exhibit “F”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
CARLOS RIVERA,

:
Plaintiff,

:
Case No.

-against- 10 CIV. 06661 :

PLAZA ACCESSORY OWNER LP, EL-AD PROPERTIES :
NY LLC, CPS 1 REALTY LP, LLC and FHR (NY)
LLC,

:
Defendants.

-----x

DEPOSITION of a Non-Party Witness, NANCY BRAVO, taken by the Plaintiff, pursuant to Subpoena, held at the offices of Barrister Reporting Service, Inc., 120 Broadway, Suite 1111, New York, New York, on June 1, 2011, at 10:20 a.m., before a Notary Public of the State of New York.

BARRISTER REPORTING SERVICE, INC.

120 Broadway

New York, N.Y. 10271

212-732-8066

		Page 1		Page 3
1	UNITED STATES DISTRICT COURT		1	1
2	SOUTHERN DISTRICT OF NEW YORK		2	2
3	-----x		3	3
4	CARLOS RIVERA,	:	4	4
5	Plaintiff, :		5	5
6	Case No.		6	6
7	-against- 10 CIV. 06661 :		7	7
8	PLAZA ACCESSORY OWNER LP, EL-AD PROPERTIES :		8	8
9	NY LLC, CPS 1 REALTY LP, LLC and FHR (NY)		9	9
10	LLC, :		10	10
11	Defendants. :		11	11
12	-----x		12	12
13	DEPOSITION of a Non-Party Witness, NANCY		13	13
14	BRAVO, taken by the Plaintiff, pursuant to		14	14
15	Subpoena, held at the offices of Barrister		15	15
16	Reporting Service, Inc., 120 Broadway, Suite		16	16
17	1111, New York, New York, on June 1, 2011, at		17	17
18	10:20 a.m., before a Notary Public of the State		18	18
19	of New York.		19	19
20	*****		20	20
21	BARRISTER REPORTING SERVICE, INC.		21	21
22	120 Broadway		22	22
23	New York, N.Y. 10271		23	23
24	212-732-8066		24	24
		Page 2		Page 4
1	1		1	1
2	2 APPEARANCES:		2	2
3	THE LAW OFFICES OF FAUSTO E. ZAPATA, JR.,		3	3
4	P.C.		4	4
5	Attorneys for Plaintiff		5	5
6	277 Broadway		6	6
7	Suite 501		7	7
8	New York, New York 10007		8	8
9	BY: FAUSTO E. ZAPATA, JR., ESQ.		9	9
10	LITTLER MENDELSON, P.C.		10	10
11	Attorneys for Defendants		11	11
12	One Newark Center		12	12
13	8th Floor		13	13
14	Newark, New Jersey 07102-5311		14	14
15	BY: WILLIAM P. MC LANE, ESQ.		15	15
16	xxxxx		16	16
17			17	17
18			18	18
19			19	19
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		Page 5		Page 7	
1	2	I will.	1	2	responsible for making sure that everything
2	3	A. Okay.	2	3	that was submitted to you was correct. When
3	4	Q. If you need to take a break at any	3	4	you say everything that was submitted to you,
4	5	point, let me know and I'll give you an	4	5	what are you referring to?
5	6	opportunity to take a break. Since we're	5	6	A. Hours, personal days off, vacation
6	7	asking you questions it's important that your	6	7	days, sick days, personal days. The hours
7	8	memory be clear.	7	8	itself was a responsibility of the managers.
8	9	Have you taken any medications today	8	9	If they submitted 40 hours regular and 50
9	10	that may affect your memory?	9	10	hours overtime, it was approved. It was not
10	11	A. No.	10	11	something that I would call every manager and
11	12	Q. Are you currently employed?	11	12	say this is not correct. Are you sure? I
12	13	A. No.	12	13	depended on the managers to be my eyes into
13	14	Q. When was the last time you were	13	14	their world because they maintained
14	15	employed?	14	15	schedules, all paperwork concerning time off.
15	16	A. The last day I worked was Friday,	15	16	So, once they submitted the payroll and I
16	17	April 15th.	16	17	closed the payroll, it was a matter of me
17	18	Q. Where did you work at that time?	17	18	eyeballing everything, making sure everything
18	19	A. At The Plaza Hotel. CPS 1 is the name	18	19	was correct, and I would see hours were
19	20	for the IRS, but it's also The Plaza Hotel.	19	20	submitted, personal days off were submitted,
20	21	A lot of people get confused.	20	21	everything was fine.
21	22	Q. When you say April 15th, are you	21	22	Q. Who was your direct supervisor in May
22	23	talking about this year?	22	23	of 2005?
23	24	A. Yes.	23	24	A. There were two of them. The assistant
24	25	Q. 2011?	24	25	controller, his name is Leonard Apostal, and
		Page 6		Page 8	
1	2	A. Yes.	1	2	the controller was Jim Harvey. When I hear
2	3	Q. What position did you hold at that	2	3	immediate supervisor, some people take it to
3	4	time?	3	4	be Leonard and some people take it to be Jim.
4	5	A. Payroll manager.	4	5	That's why I mentioned both names.
5	6	Q. Can you please describe your job	5	6	Q. Do you know who Carlos Rivera is?
6	7	duties as a payroll manager as of April of	6	7	A. Yes.
7	8	2011?	7	8	Q. How do you know him?
8	9	A. First of all, to maintain accuracy at	8	9	A. Well, from the old Plaza or the new
9	10	all times. We had a union/nonunion payroll,	9	10	Plaza?
10	11	and I was responsible for making sure that	10	11	Q. Well, how do you know him?
11	12	everything that was submitted to me was	11	12	A. We met at The Plaza. He started, I
12	13	correct. Not actually process it, but make	12	13	believe, before me. I believe he started
13	14	sure all the managers submitted the work	13	14	either in '88 or '89, 1988 or 1989. I
14	15	correctly, and then at that point I ran a	14	15	started in 1990. It was a group of employees
15	16	report, eyeballed everything, made sure	15	16	who started at the same time, and you get to
16	17	everything looked correct and went on with	16	17	know each other after awhile. There's always
17	18	the payroll, and anything in between, let's	17	18	a division between union and nonunion, but
18	19	say, which happens frequently, there was a	18	19	after awhile you speak to people, become
19	20	last minute entry, most of the time it was a	19	20	friendly.
20	21	union, because we do have a union property,	20	21	Q. Do you know who Rajan Lai is?
21	22	that would be a reconciled item, and that had	21	22	A. Yes.
22	23	to be approved by the controller because it's	22	23	Q. How do you know him?
23	24	outside the normal routine of the payroll.	23	24	A. He was the prior director of Human
24	25	Q. You just testified that you were	24	25	Resources. He's no longer employed at The

		Page 9		Page 11
1	2	Plaza.	1	I wanted the transition to be as smooth as
2	3	Q. Do you know on or around when he	2	possible. There was a lot of interaction
3	4	started as the director of Human Resources?	3	with Rajan.
4	5	A. Rajan Lai was part of the preopening	4	Q. Did you ever discuss Carlos Rivera
5	6	team when The Plaza was closed and then El-Ad	5	with Rajan Lai?
6	7	Properties was bringing them on board.	6	A. Yes.
7	8	Probably August or September of 2007 he came	7	Q. Can you please tell us what you
8	9	on board after the general manager and I	8	discussed with Mr. Lai about Mr. Rivera?
9	10	believe the other employee was a director of	9	A. Rajan asked me if I knew the
10	11	revenue, because at that time there was no	10	circumstances of his employment at The Plaza,
11	12	employee data for him to work with. Even	11	and I told him I did, because we all knew
12	13	though I was maintaining it, there was no	12	each other, but I did mention to Rajan that
13	14	employee data for him to work with.	13	when the severance was prepared, Carlos
14	15	Q. What do you mean by there was no	14	Rivera had a job title of room service
15	16	employee data?	15	bartender. It was either room service
16	17	A. At that point the only employees were	16	bartender or private dining. I don't
17	18	the recall employees, the employees that were	17	remember the exact job classification. His
18	19	waiting to come back or deciding whether or	18	severance was paid on that job
19	20	not the severance was to be paid, and it	19	classification. I did mention to him even
20	21	wasn't until there was enough data for him to	20	though he had the title of private dining
21	22	work with that El-Ad Properties decided to	21	bartender, he worked in other outlets. He
22	23	bring in the director of HR to handle that	22	was reassigned wherever he was needed.
23	24	and pull it off of my lap.	23	Q. In or around 2005 before The Plaza
24	25	Q. What do you mean by pull it off of my	24	closed, did you know where Carlos Rivera
		Page 10		Page 12
1	2	lap?	1	routinely worked?
2	3	A. I was on El-Ad's payroll.	2	A. Yes.
3	4	Q. But were you doing duties for The	3	Q. Where?
4	5	Plaza?	4	A. In the Oak Room.
5	6	A. Yes.	5	Q. How do you know that?
6	7	Q. During Rajan Lai's employment at The	6	A. Well, I'm there. At that point I was
7	8	Plaza did you have any type of interaction	7	there 15 years. I know the employees and I
8	9	with him on a professional level?	8	recognize the uniforms.
9	10	A. Yes.	9	Q. What do you mean?
10	11	Q. Can you please describe the type of	10	A. There was a uniform extended to
11	12	interaction you had with him on a	11	whatever outlet the employee worked. The
12	13	professional level?	12	Palm Court had their own uniform. The Oak
13	14	A. Basically working with the employee	13	Room had their own uniform, and the Oyster
14	15	data, any new hires, any issues that came up	14	Bar had their own uniform. You can spot them
15	16	with employees that require a check to be	15	a mile away; oh, he's Oak Room, he's Palm
16	17	paid was submitted to me. If I had any	16	Court.
17	18	questions, I would go to Rajan for further	17	Q. What uniform did you mostly see Carlos
18	19	explanation. I don't think he's familiar	18	Rivera wearing?
19	20	with the union contract. I'm not sure, but	19	A. The Oak Room uniform was white and I
20	21	anything that I felt needed further	20	believe it had gold stripes.
21	22	clarification I went back to Rajan for the	21	Q. Was that the Oak Room?
22	23	simple reason was we opened the hotel again	22	A. Yes.
23	24	and I didn't want there to be any issues in	23	Q. Let's narrow it down in terms of time
24	25	the beginning. Everybody is coming back, and	24	frame. In 2005 which uniform did you see

				Page 13	Page 15	
1	2	Carlos Rivera wear?		1	2	A. Yes. At this point I tried valiantly
2	3	A. The Oak Room.		2	3	to remember who the manager was, but I go
3	4	Q. Did you have any other conversations		3	4	blank.
4	5	with Rajan Lai with respect to Carlos		4	5	Q. Do you remember what he looks like?
5	6	Rivera's classification?		5	6	A. There might be an employee that might
6	7	A. Yes.		6	7	know. His name is Anthony Evangelista. I'm
7	8	Q. Could you tell us?		7	8	not sure how long he stayed at The Plaza
8	9	A. He basically wanted to know what I		8	9	prior to the closing, but he's working in one
9	10	knew about Carlos, and I said that although		9	10	of the Fairmonts, either Fairmont Beijing or
10	11	he was categorized as room service bartender,		10	11	Fairmont Singapore. He's in one of those
11	12	and I realized he was in the Oak Room, but it		11	12	properties.
12	13	was up to the manager to make sure that his		12	13	Q. Do you know who Kenny Okutani is?
13	14	job classification was changed, which		13	14	A. It sounds familiar. Is that an
14	15	required paperwork, and a lot of people don't		14	15	employee in sales?
15	16	like doing paperwork. What's unfortunate is		15	16	Q. If you don't know, don't worry about
16	17	when the paperwork wasn't done and The Plaza		16	17	it.
17	18	closed, everything was done so fast. We		17	18	A. It sounds familiar, but I don't
18	19	based the severance based on the active job		18	19	remember.
19	20	classification. The reason Carlos became I		19	20	Q. Do you know who Myoung Nam is?
20	21	guess the next one in line to go to the Oak		20	21	A. Myoung, yes.
21	22	Room was because there were two deaths in		21	22	Q. Who is she?
22	23	that department. One was John Murphy. He		22	23	A. Myoung was the HR coordinator.
23	24	was a Oak Room bartender, and the other one,		23	24	Q. What does that mean?
24	25	I don't remember his name, but he was called		24	25	A. She handled the administrative duties
				Page 14	Page 16	
1	2	Kiddie. He was from Thailand. So, they		1	2	in the Human Resources Department.
2	3	needed a permanent bartender at that time. I		2	3	Q. Did you have any interactions with
3	4	don't know when the deaths occurred, but		3	4	her?
4	5	that's what created the opening in the Oak		4	5	A. Yes.
5	6	Room.		5	6	Q. Can you describe the interactions that
6	7	Q. Was that pre2005?		6	7	you had with her?
7	8	A. Yes. It may have been 2005, the early		7	8	A. Myoung would submit paperwork to me,
8	9	part of 2005. I don't remember the exact		8	9	and by paperwork I mean new hires, any check
9	10	dates, but it was two deaths, John Murphy and		9	10	request, anything that would require
10	11	the other employee named Kiddie.		10	11	follow-up with payroll she would bring up the
11	12	Q. The paperwork was never submitted for		11	12	paperwork.
12	13	the classification of Mr. Rivera?		12	13	Q. Did job classifications effect
13	14	A. No. That was something that was		13	14	payroll?
14	15	determined by the department manager and what		14	15	A. No. In the payroll world I just need
15	16	he had to do. I would sometimes see an		15	16	a name, hours and a rate.
16	17	employee working in the outlet, and I would		16	17	Q. Is the rate determined by
17	18	say to the manager if that's permanent, you		17	18	classification?
18	19	must do paperwork, and then HR would be		18	19	A. Yes.
19	20	notified, and it would be up to the		19	20	Q. How about David C. Jones, do you know
20	21	department manager and HR to take that route.		20	21	who he is?
21	22	Q. Did you ever do this, identify to the		21	22	A. Yes.
22	23	manager that Mr. Rivera was working out of		22	23	Q. Who is he?
23	24	his classification? Did you ever highlight		23	24	A. David Jones, I believe his final title
24	25	that to anybody?		24	25	when The Plaza closed was -- I think it was

		Page 17			Page 19
1	2	employment manager. He also worked in Human	1	2	or somebody could be in the Oyster Bar that
2	3	Resources.	2	3	was primarily set to be in the Palm Court.
3	4	Q. Do you know what his job duties were	3	4	Because it was double-coded the manager
4	5	when he worked in Human Resources in or	4	5	chooses that job classification. When the
5	6	around 2005?	5	6	payroll is submitted, you can have a Oak Room
6	7	MR. MC LANE: Objection to the	6	7	bartender working in the Palm Court for one
7	8	form.	7	8	week, probably for vacation coverage or any
8	9	A. David Jone was responsible for firing	8	9	number of reasons, but like I said, it was up
9	10	employees, part of the hiring process, not	9	10	to the manager. If they saw that the change
10	11	the ultimate hire of, handling benefit	10	11	was going to be permanent, it was up to them
11	12	payments, if I remember correctly, like 401K,	11	12	to prepare paperwork for the simple reason
12	13	Workers' Comp., and at that time he paid the	12	13	when you have a union property, everything
13	14	union payments; dues, 401Ks and benefits.	13	14	has to be to the letter. You can't fluctuate
14	15	Q. Now, the records when The Plaza	14	15	with a job classification.
15	16	reopened in 2008 with regard to job	15	16	Q. Are you familiar with the pay stubs
16	17	classifications, in your opinion were they	16	17	that the workers at The Plaza would receive?
17	18	accurate?	17	18	A. Yes.
18	19	A. Yes.	18	19	Q. Do you know if in 2008 the pay stubs
19	20	Q. Was Carlos Rivera's job classification	19	20	indicated the classification?
20	21	accurate?	20	21	A. No.
21	22	A. For the most part. It was accurate to	21	22	Q. They did not?
22	23	the part that -- it was as accurate as the	22	23	A. No, because it was from Ceridian, and
23	24	last paperwork that was submitted, which was	23	24	Ceridian didn't have job classification.
24	25	private dining bartender. If you were to	24	25	Ceridian was a payroll company.
		Page 18			Page 20
1	2	request the severance listing, it would say	1	2	Q. You just testified as to
2	3	private dining bartender.	2	3	double-coding. You said bartenders very
3	4	Q. So, you're saying it was accurate even	3	4	often had double-coding. Did that ever
4	5	though he worked at the Oak Bar?	4	5	create any problems?
5	6	MR. MC LANE: Objection. Asked	5	6	A. Not in my world where I just needed
6	7	and answered.	6	7	hours, rate and a name, but when it comes to
7	8	A. It's in the Oak Room, the Oak Bar.	7	8	reporting, that's when it was critical that
8	9	It's the same.	8	9	if you have a bartender, the bartender should
9	10	What was the question?	9	10	be coded correctly. The manager when he
10	11	Q. You're saying even though Carlos	10	11	would prepare the payroll, as the employees
11	12	Rivera worked in the Oak Room at the Oak Bar	11	12	are processed there's a drop down and it
12	13	in 2005 his job classification was accurate?	12	13	would show Palm Court, Oyster Bar, Oak Room.
13	14	MR. MC LANE: Objection to form.	13	14	Wherever they worked the prior day, that is
14	15	A. Yes. The reason I say yes is because	14	15	what was chosen.
15	16	you might have a bartender that says private	15	16	Q. Are you saying for reporting purposes?
16	17	dining bartender or Palm Court bartender, but	16	17	A. That was used for reporting purposes,
17	18	every bartender was double-coded.	17	18	but not for me. I just needed hours and rate
18	19	Q. What does that mean?	18	19	and a name.
19	20	A. That means they assume the job	19	20	Q. Can you describe the relationship that
20	21	classification and the rate to work in	20	21	you had with Rajan Lai?
21	22	another outlet. So, when the payroll is	21	22	MR. MC LANE: Objection to the
22	23	processed and reports are generated, they	22	23	form.
23	24	show a bartender in the Palm Court although	23	24	A. Professional. Nothing out of the
24	25	his main job classification is the Oak Room	24	25	ordinary. Like we didn't go for drinks after

		Page 21		Page 23	
1	2	work or anything.	1	2	working with El-Ad Properties, with the
2	3	Q. Why did your employment come to an end	2	3	audits and vendors that still had to be paid,
3	4	at The Plaza?	3	4	dealing with the Department of Labor when all
4	5	A. I was having issues at The Plaza	4	5	the employees were unemployed, it was
5	6	stemming from when I started in December of	5	6	extensive work with the Department of Labor,
6	7	2007. When I returned back -- The Plaza	6	7	I thought that would be seen as a major
7	8	closed April 30th. I was asked by El-Ad	7	8	benefit, and I honestly never thought it was.
8	9	Properties to stay on board because they	8	9	MR. ZAPATA: I have no further
9	10	needed someone that was familiar with the	9	10	questions.
10	11	union to handle the union severance payments.	10	11	MR. MC LANE: I have nothing.
11	12	It was a huge payment. If I remember	11	12	Thank you.
12	13	correctly, it was way over \$1 million, and it	12	13	(Time noted: 10:50 a.m.)
13	14	had to be correct. Once that was done there	13	14	
14	15	was a lot of union issues pending, and unless	14	15	
15	16	you were familiar with the union it would be	15	16	
16	17	very hard for El-Ad Properties. So, they	16	17	-----
17	18	kept me on board, and it just grew from	17	18	NANCY BRAVO
18	19	there.	18	19	
19	20	Q. So, how did your employment come to an	19	20	Subscribed and sworn to before me
20	21	end?	20	21	this day of 2011.
21	22	A. At El-Ad?	21	22	
22	23	Q. Yes.	22	23	-----
23	24	A. Well, the preopening team were hired I	23	24	Notary Public
24	25	believe in the summer of 2007, and once they	24	25	

		Page 22		Page 24	
1	2	came on board, which I believe is the general	1	1	
2	3	manager, the director, Rajan Lai, and I	2	2	C E R T I F I C A T E
3	4	believe one or two employees for sales, I was	3	3	I, CAROLYN PALADINO, hereby certify
4	5	asked do I want to be payroll manager, and I	4	4	that the Deposition of NANCY BRAVO was held
5	6	said sure.	5	5	before me on the 1st day of June, 2011; that
6	7	Q. Did you resign or did you get	6	6	said witness was duly sworn before the
7	8	terminated?	7	7	commencement of her testimony; that the
8	9	A. From El-Ad Properties?	8	8	testimony was taken stenographically by
9	10	Q. Yes.	9	9	myself and then transcribed by myself;
10	11	A. I don't know. It was a	10	10	That the within transcript is a true
11	12	resignation/termination, because I finished	11	11	record of the Deposition of said witness;
12	13	from El-Ad Properties and I started at The	12	12	That I am not connected by blood or
13	14	Plaza. So, I don't know what that is called.	13	13	marriage with any of the parties; that I am
14	15	Q. When did you stop working at The	14	14	not interested directly or indirectly in the
15	16	Plaza?	15	15	outcome of this matter; that I am not in the
16	17	A. April 15th.	16	16	employ of any of the counsel.
17	18	Q. Why did you stop working at The Plaza	17	17	IN WITNESS WHEREOF, I have hereunto set
18	19	on April 15th?	18	18	my hand this day of , 2011.
19	20	A. Without getting into too much, because	19	19	
20	21	I don't want to defer from Carlos' case here,	20	20	
21	22	I honestly felt my position was not taken	21	21	CAROLYN PALADINO
22	23	very seriously with the new management team.	22	22	
23	24	I thought that by my being the one who	23	23	
24	25	handled everything when The Plaza closed;	24	24	
			25		

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ERRATA SHEET	
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Exhibit “G”

1

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

3 ----- x
4 CARLOS RIVERA,

4

5 Plaintiff,

5

6 -against-

6

7 PLAZA ACCESSORY OWNER LP, ELAD PROPERTIES
8 NY LLC, CPC Q REALTY LLP, LLC,
9 Defendants.

----- x

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10 TELEPHONIC EXAMINATION BEFORE TRIAL of the
11 Defendant, PLAZA ACCESSORY OWNER LP, by MARTA
12 REUS, taken by the Plaintiff, pursuant to Order,
13 held at the Law Offices of Fausto E. Zapata,
14 Jr., 277 Broadway, New York, New York on July
15 14, 2011, at 9:00 a.m., before a Notary Public
16 of the State of New York.

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23 BARRISTER REPORTING SERVICE, INC.

24 120 Broadway

25 New York, N.Y. 10271

212-732-8066

	Page 1		Page 3
1 2	UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK		
2 3	-----x		
3 4	CARLOS RIVERA,		
4 5	Plaintiff,		
5 6	-against-		
6 7	PLAZA ACCESSORY OWNER LP, ELAD PROPERTIES NY LLC, CPC Q REALTY LLP, LLC,		
7 8	Defendants.		
8 9	-----x		
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24 25			
	Page 2		Page 4
1	APPEARANCES:		
2	LAW OFFICES OF FAUSTO E. ZAPATA, JR. Attorneys for Plaintiff 277 Broadway, Suite 501 New York, New York 10007		
3			
4	BY: FAUSTO E. ZAPATA, JR., ESQ. and CRAIG HANLON, ESQ.		
5			
6	LITTLER MENDELSON, P.C. (Via Telephone) Attorneys for Defendants One Newark Center, 8th Floor Newark, New Jersey 07107		
7			
8	BY: BILL McLANE, ESQ.		
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23	xxxxx		
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1	Reus	1	Reus
2	not be able to recall events today that's	2	Q When did you start?
3	caused by some medical condition of any kind?	3	A February, 2001.
4	A No.	4	Q When did you stop?
5	MR. MC LANE: Let me say for	5	A May, 2002.
6	the record that Marta is expecting a	6	Q Can you please describe your
7	child any moment now and she would not	7	educational background?
8	be able to finish the deposition if	8	A I have a bachelor of commerce degree
9	she goes into labor.	9	minoring in human resources from Ryerson
10	THE WITNESS: That's a good	10	University in Toronto, R-Y-E-R-S-O-N.
11	point, thank you. Let's cross our	11	Q When did you graduate?
12	fingers.	12	A 2002.
13	Q Let's get through this fast then.	13	Q What position did you hold during the
14	Marta, who is your employer right now?	14	time that you worked at the Fairmont in New
15	A Well, I work for Fairmont Hotel.	15	York, the Plaza?
16	Legally the employer is Hotel and Properties	16	A Assistant director of human resources.
17	LLC.	17	Q Can you please describe the duties
18	Q How long have you worked with this	18	that you performed as assistant director of
19	employer?	19	human resources at the Plaza?
20	A Since February, 2009 and then prior to	20	A My main responsibilities were sort of
21	that I was with Fairmont at the Plaza.	21	implementing and management of the Fairmont
22	Q How long did you work with Fairmont at	22	Hotel, operational procedures as it pertains
23	the Plaza?	23	to human resources, leadership in
24	A About a year and-a-half, just over a	24	establishing procedures total wide as it
25	year and-a-half, from July of 2007 until	25	comes to our standards in human resources,
	Page 6		Page 8
1	Reus	1	Reus
2	February of 2009.	2	then recruitment was my main function sort of
3	Q Where did you work before that?	3	as it was the preopening.
4	A At the Fairmont, C-O-P-L-E-Y, Plaza in	4	I also sort of administratively
5	Boston.	5	assisted Rajan Lai, the director of human
6	Q When did you start working there?	6	resources with some of the supports with the
7	A September, 2005.	7	recalls, colleagues that were coming back to
8	Q When did you stop working there?	8	us and then in general, sort of
9	A July, 2007.	9	administration of letters going out to
10	Q Before that, where did you work?	10	10 colleagues, for example, that decided to take
11	A At the Fairmont Royal York in Toronto.	11	11 severance, sending out checks, things like
12	Q When did you start working there?	12	12 that.
13	A January, 2004.	13	Q Who did you report to?
14	Q When did you stop?	14	A I reported to Rajan Lai who was the
15	A September, 2005.	15	director.
16	Q Before that where did you work?	16	Q How many people worked in the human
17	A Fairmont Empress in Victoria, British	17	resources department?
18	Columbia.	18	A Four.
19	Q When did you start working there?	19	Q What are the names of all of the
20	A May, 2002.	20	individuals?
21	Q When did you stop?	21	A Jane Yrenaya was the director of
22	A January, 2004.	22	learning and development and Ingrid Dominguez
23	Q Where did you work before that?	23	was the human resources coordinator.
24	A I have been at the Hotel Toronto	24	Q Then you and Rajan?
25	Centre.	25	A That's right.

1 Reus
 2 Q Who was responsible for conducting
 3 investigations regarding complaints of
 4 discrimination?
 5 A Rajan Lai the director.
 6 Q Were you involved in any
 7 investigations regarding complaints of
 8 discrimination?
 9 A No.
 10 Q Rajan Lai pretty much did it all by
 11 himself?
 12 A He did. I mean he would ask me to
 13 pull files for people, but I didn't know what
 14 it was pertaining to. If he asked me to pull
 15 up files, then I would go into the file, then
 16 he would ask me for copies of employment
 17 letters, I would get files, particularly if
 18 the colleague has a history with the hotel
 19 and there is a file. My role was
 20 administrative.
 21 Q Your office, during the time you were
 22 there, had access to files for employees that
 23 worked at the Plaza prior to 2005?
 24 A We had access to files for employees
 25 that were sort of active in turning back. We

1 Reus
 2 the letters, then obviously in some cases
 3 some follow ups. I was responsible for the
 4 tracking of all of this basically.
 5 Q What about when they finally were
 6 reinstated after being recalled, did you have
 7 any involvement at that point?
 8 A My involvement at that point was more
 9 operationally. If they had challenges with
 10 overtime or something like that, then I would
 11 be more operationally responsible in nature.
 12 Certainly then we would look at sort
 13 of the collective agreement to interpret the
 14 hours that they worked, as an example. With
 15 the sort of recall process, very much Rajan
 16 was the one in charge because he knew
 17 obviously the story behind and had all of the
 18 documents behind the situation.
 19 Q What do you mean by that he had all of
 20 the documents?
 21 A Well like seniority, he was a master
 22 keeper of all of those documents, my role was
 23 much more operational. Once they came back
 24 to work, then any challenges that came up
 25 during the course of the hotel operation, I

1 Reus
 2 didn't actually have -- we would have to
 3 request it to have the file, we didn't have
 4 all of the files in the office.
 5 Q You had all of the files for
 6 everybody, that's when you pulled?
 7 A That's right, all of our actual
 8 employees we had in the office.
 9 Q You stated that you were involved in
 10 recalling colleagues; is that right?
 11 A Right.
 12 Q Can you please describe what your role
 13 was in that respect?
 14 A Preparing mail, letters for others to
 15 recall them back to former positions or
 16 offering severance. We had a situation that
 17 severance was offered before I even got
 18 there. It was letters sort of inviting them
 19 back for certain dates for orientation or
 20 letters to invite them into the hotel to meet
 21 with Rajan for whatever reason, various
 22 reasons.
 23 Tracking, like once the letters went
 24 out for the recall colleagues, we would sort
 25 of track them, that the colleagues received

1 Reus
 2 would sometimes handle it. If it was
 3 something more serious, it would generally go
 4 to him. Anything with a business agent was
 5 dealt with by Rajan.
 6 Q I want you to take a look at the
 7 document that's been marked for
 8 identification as P11. After you find and
 9 review it, please let me know?
 10 A P11, yes, the employee action form.
 11 Q Can you please describe for us first,
 12 do you recognize this document?
 13 MR. MC LANE: Give me one
 14 second to find it myself.
 15 Q Did you have an opportunity to review
 16 the document?
 17 A Yes.
 18 Q Do you recognize what this document
 19 is?
 20 A It is a standard employee action form
 21 that we use in Fairmont.
 22 Q How do you recognize it?
 23 A I used the same form in my current
 24 hotel.
 25 Q I want you to look at the bottom where

1 Reus
 2 it says approvals. Do you know whose
 3 signature is next to where it says general
 4 manager?
 5 A The signature appears to be Shayne
 6 Creek, the general manager for the Plaza.
 7 Q The signature on the bottom next to
 8 director of human resources, do you know
 9 whose signature that is?
 10 A It appears like it is Rajan Lai.
 11 Q Are you familiar with Rajan Lai's
 12 signature?
 13 A Yes, I have seen it in various
 14 locations.
 15 Q How did you come to see his signature
 16 on numerous occasions?
 17 A Well, within the course of our duties
 18 in the office we are involved in looking at
 19 the employee files and obviously, these forms
 20 would be in their files. You could see if he
 21 was signed off on any letters that are issued
 22 from human resources or most of the letters
 23 that are issued from human resources, you see
 24 it during your day to day duties.
 25 Q This document, is it a document that

1 Reus
 2 the Plaza maintained in the ordinary course
 3 of business?
 4 A Within human resources, yes.
 5 Q Where were these documents stored?
 6 A In the confidential employee file.
 7 Q Looking at this document, can you tell
 8 us what information is being conveyed on this
 9 document?
 10 A The information is the named
 11 individual would be on this form, Carlos
 12 Rivera, there would be employee numbers, et
 13 cetera. He is moving into a position of a
 14 bartender in the department of Champagne Bar
 15 at a rate of 23.40 something -- I can't quite
 16 make out that salary level.
 17 Q Do you know, it says department
 18 number, it says 0530, do you know what that
 19 means?
 20 A Department number typically
 21 corresponds to the department that's written
 22 out. I cannot confirm that would be the
 23 number for the Champagne Bar because I don't
 24 remember, but that's what it would normally
 25 mean.

1 Reus
 2 Q Just so I am clear, it says
 3 department, the Champagne Bar is a
 4 department; is that right?
 5 A That's correct.
 6 Q The title was bartender; is that
 7 right?
 8 A That's right.
 9 (Whereupon the record was read
 10 back by the reporter.)
 11 Q I want you to take a look at the
 12 document that's been marked for
 13 identification as P8. Do you recognize the
 14 document that's been identified as P8?
 15 A Yes, it looks like a recall letter
 16 that we used, a form letter.
 17 Q The signature at the bottom, do you
 18 recognize that signature?
 19 A It looks like the signature of Rajan
 20 Lai.
 21 Q These are the letters that went out
 22 to, I guess, individuals being recalled?
 23 A Yes.
 24 Q It says here there is a training
 25 period. Were you familiar with what the

1 Reus
 2 training period consisted of?
 3 MR. MC LANE: Where are you
 4 reading?
 5 Q It says right at the bottom training
 6 period, this training period will introduce
 7 you to the New Plaza five star --
 8 MR. MC LANE: Got it.
 9 A We did. We have a five star training
 10 program. Off the top of my head, to be
 11 honest I don't recall what the length of time
 12 was. Our typical orientation is two days.
 13 Then the actual five star training for each
 14 of the employees would have been a number of
 15 weeks, but I don't recall exactly how many to
 16 be honest.
 17 Q Do you know what the purpose of the
 18 training is?
 19 A Certainly to introduce the colleagues
 20 to the standards of the Plaza, the position
 21 that they are moving into, the standard
 22 operating procedures, Fairmont philosophy and
 23 service levels, certain standards.
 24 Q What would happen if somebody did not
 25 satisfactorily complete the training period?

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1	Reus	1	Reus
2 A	Well it depends on the situation. Off	2 A	I have.
3 the top of my head, I think we had everybody		3 Q	Would it be fair to say that you are
4 that was successful. They would get		4	familiar with it?
5 restrained until they were at the		5 A	Yes.
6 satisfactorily level. Obviously some		6 Q	What is your understanding as to what
7 colleagues have probation periods in which		7	obligations exist for the Plaza in this
8 case, if they didn't meet the standards they		8	agreement?
9 would be offered, it depends, offered the		9	MR. MC LANE: All the
10 recall employees -- I am not sure what the		10	obligations?
11 exact standard was, but there were different		11 Q	Strike that question.
12 procedures.		12 A	I am sorry.
13 The new hired colleagues went through		13 Q	I said strike that question. Forget
14 the same procedure or the same training I		14	that question. The question I have is --
15 should say, and they had sort of different		15	MR. MC LANE: I don't know, for
16 consequences so I am not sure to be able to		16	the document that's labeled P15, have
17 comment on the details.		17	we identified the handwriting on this
18 Q You said that there were different		18	document yet?
19 consequences for the individuals recalled and		19	MR. ZAPATA, JR.: P15, what are
20 the new hires; is that right?		20	you talking about, P what?
21 A Yes.		21	MR. MC LANE: I am looking at
22 Q What were the consequences for		22	P2, the copy that I have.
23 individuals that were recalled that did not		23	MR. ZAPATA, JR.: It is my
24 satisfactorily complete the training period?		24	copy, it is a number of pages, it
25 A From what I recall, they had a number		25	says.
	Page 18		Page 20
1	Reus	1	Reus
2 of sort of restraining available to them.		2	THE WITNESS: I have a marked
3 Q How about new employees?		3	up version, then I have P2, it is an
4 A I think they had a number of -- well I		4	agreement.
5 think actually the standard was a little bit		5	MR. MC LANE: If you go down
6 higher, to be honest, for them.		6	to, there is a heading that says after
7 Q I want you to take a look at the		7	the signatures, there is an employee
8 document marked for identification as P2.		8	severance recall right from there to
9 Bill, do you have it?		9	the bottom of the document that I
10 MR. MC LANE: Hold on.		10	have. There is a lot of handwriting
11 Q Do you recognize the document that's		11	on that. P11, P12, P13, P14, then the
12 been marked for identification as P2?		12	last page P15, it is all handwriting.
13 A I have seen it before, yes.		13	MR. ZAPATA, JR.: I didn't get
14 Q What do you recognize this document to		14	my question out. She already
15 be?		15	identified it. My question to her --
16 A It was the agreement that the Plaza		16	MR. MC LANE: I understand you
17 had with the union in regards to the		17	are asking her about the obligations.
18 recalling of the employees, the formerly		18	I am trying to figure out what we have
19 employed employees.		19	established, where this handwriting
20 Q How do you recognize it?		20	comes from, whether this is the final
21 A I have seen it before.		21	document.
22 Q When?		22	Obviously it is signed, but are
23 A During the course of my employment at		23	you asking questions about the signed
24 the Plaza.		24	portion of it or about the marked
25 Q Have you ever read this document?		25	version?

<p>1 Reus</p> <p>2 MR. ZAPATA, JR.: No, I am</p> <p>3 going to ask her just generally.</p> <p>4 Q I wanted to ask you what is your</p> <p>5 understanding as to the recall rights, the</p> <p>6 Plaza Hotel employees that accepted the</p> <p>7 severance package? Was it just a regular</p> <p>8 severance package, what is your understanding</p> <p>9 of their recall rights?</p> <p>10 A Off the top of my head, I think once</p> <p>11 they accepted the severance I think they</p> <p>12 waived their recall rights, if I remember</p> <p>13 correctly.</p> <p>14 Q Let's say they had a right to go back</p> <p>15 to the Plaza, what is your understanding as</p> <p>16 to what rights they had, if any?</p> <p>17 A For colleagues that didn't accept the</p> <p>18 severance that had a right to go back?</p> <p>19 Q Yes.</p> <p>20 A Well my understanding is that they</p> <p>21 could go or they would be called back to</p> <p>22 their positions in the department prior to</p> <p>23 the Plaza closing. For example, I know a lot</p> <p>24 of banqueting staff had to wait until the</p> <p>25 banqueting operation opened.</p>	<p>Page 21</p> <p>1 Reus</p> <p>2 seniority would say where they went back into</p> <p>3 the Palm Court.</p> <p>4 Q How many seniority lists existed for</p> <p>5 the bartender title?</p> <p>6 A I am sorry, how many?</p> <p>7 Q How many seniority lists existed for</p> <p>8 the bartender title during the time that you</p> <p>9 worked at the Plaza in New York?</p> <p>10 MR. MC LANE: Objection to</p> <p>11 form. You can answer.</p> <p>12 A Well we only had one seniority list,</p> <p>13 it was for all positions. Is that what you</p> <p>14 mean?</p> <p>15 Q I am talking about just bartenders,</p> <p>16 was there a seniority list that identified</p> <p>17 bartenders?</p> <p>18 A Yes, of course, it identified all</p> <p>19 positions.</p> <p>20 Q I am sorry?</p> <p>21 A There was a seniority list that</p> <p>22 identified all positions in the Plaza,</p> <p>23 bartenders being some of the positions of</p> <p>24 course.</p> <p>25 Q How many classifications were there</p>
<p>1 Reus</p> <p>2 The Palm Court staff were called back</p> <p>3 to the Palm Court, housekeeping to</p> <p>4 housekeeping. If there was a department that</p> <p>5 did not exist in the former Plaza, then there</p> <p>6 would be no recalls for that department.</p> <p>7 They were entitled to go back to their</p> <p>8 department basically.</p> <p>9 Q Does seniority play into this in any</p> <p>10 way?</p> <p>11 A Well certainly once they are recalled</p> <p>12 back, they are recalled back based on</p> <p>13 seniority.</p> <p>14 Q How about once they are back at the</p> <p>15 Plaza, what impact, if any, would seniority</p> <p>16 have with respect to the positions that the</p> <p>17 individuals would be offered?</p> <p>18 A Well I think it has to do with the</p> <p>19 seniority. It has to do with where they were</p> <p>20 on their schedules in the department. I</p> <p>21 don't recall that seniority said what</p> <p>22 departments they went into.</p> <p>23 They were recalled back into their</p> <p>24 previous departments, the Palm Court server</p> <p>25 was called back into the Palm Court, the</p>	<p>Page 22</p> <p>1 Reus</p> <p>2 for bartender?</p> <p>3 A I mean I don't recall. Normally in a</p> <p>4 hotel we have sort of the house bartender</p> <p>5 staff, they are called service bartenders,</p> <p>6 the titles can be different.</p> <p>7 Q I am asking about that particular</p> <p>8 hotel during the time that you worked there.</p> <p>9 Do you recall?</p> <p>10 A There would have been, I see on the</p> <p>11 list that there would have been more than</p> <p>12 one.</p> <p>13 Q What list are you talking about?</p> <p>14 A Well for example, under P13 and 14</p> <p>15 which is some recall lists, basically I think</p> <p>16 that were forwarded, I guess one of them is a</p> <p>17 recall list, the other one isn't.</p> <p>18 Q Which one is the recall list?</p> <p>19 A 14, P14.</p> <p>20 Q Let's talk about P14 for the record.</p> <p>21 Do you recognize the document that's been</p> <p>22 identified as P14?</p> <p>23 A It is a recall list, yes.</p> <p>24 Q How do you recognize it?</p> <p>25 A Well the first four columns were the</p>

<p>1 Reus</p> <p>2 same four columns, or seemingly the same four</p> <p>3 columns that we used internally for the</p> <p>4 purposes of recalling employees.</p> <p>5 Q Are you familiar with this document?</p> <p>6 MR. MC LANE: Objection to</p> <p>7 form. You can answer.</p> <p>8 A This specific document, I mean I am</p> <p>9 familiar with it as I received it yesterday.</p> <p>10 But the first four columns are something I am</p> <p>11 familiar with from it being a recall list</p> <p>12 basically, the same type of set up that we</p> <p>13 would have seen as a recall list. The fifth</p> <p>14 column is not one we would have used</p> <p>15 internally.</p> <p>16 I should add that it is in my time</p> <p>17 here, it is not language that we used while I</p> <p>18 was there.</p> <p>19 Q Was there a procedure that was in</p> <p>20 place when vacancies would come up at one of</p> <p>21 the bars for the bartender position, was</p> <p>22 there a procedure with respect to vacancies</p> <p>23 that would come up at the bars within the</p> <p>24 Plaza for, I guess, existing employees to</p> <p>25 apply?</p>	<p>Page 25</p> <p>1 Reus</p> <p>2 back by the reporter.)</p> <p>3 MR. MC LANE: Objection to</p> <p>4 form. You can answer.</p> <p>5 A I mean generally speaking it would, of</p> <p>6 course.</p> <p>7 Q How?</p> <p>8 A If the person is eligible for the</p> <p>9 position, if you have two candidates</p> <p>10 internally applying for a position, you would</p> <p>11 look at obviously the experience, make sure</p> <p>12 that we have an internal structured interview</p> <p>13 process they would go into. Interviews with</p> <p>14 the department heads, if everything is equal,</p> <p>15 then we would select a more senior person.</p> <p>16 Q Was there an obligation pursuant to</p> <p>17 the collective bargaining agreements between</p> <p>18 the union and the employer? When I say</p> <p>19 employer, I am referring to the Plaza with</p> <p>20 respect to allowing the most senior person,</p> <p>21 i.e., the bartender to have the first shot at</p> <p>22 any vacant positions in the bartender title?</p> <p>23 A You would normally have that, in the</p> <p>24 opening sort of recall environment. Again,</p> <p>25 colleagues were recalled to their current</p>
<p>1 Reus</p> <p>2 A Basically the Fairmont procedure for</p> <p>3 internal applicants -- are you speaking about</p> <p>4 new positions that would become available?</p> <p>5 Q Vacancies?</p> <p>6 A Obviously to the bartender positions</p> <p>7 that were in the previous Plaza, we would</p> <p>8 have recalled employees. For the new</p> <p>9 vacancies we would go through a normal</p> <p>10 recruitment process meaning externally. We</p> <p>11 would post the position internally if there</p> <p>12 was someone eligible. The criteria for that</p> <p>13 is you need to work in your current position</p> <p>14 for a period of six months. It is Fairmont</p> <p>15 procedure. Then of course we would look</p> <p>16 externally for the positions and you go</p> <p>17 through the normal recruitment process that</p> <p>18 was actually very much your responsibility.</p> <p>19 Q If there was a vacancy at one of the</p> <p>20 bars and several existing bartenders put in</p> <p>21 for the vacant position, would seniority play</p> <p>22 a role?</p> <p>23 MR. MC LANE: Can you read that</p> <p>24 back?</p> <p>25 (Whereupon the record was read</p>	<p>Page 26</p> <p>1 Reus</p> <p>2 position or to their previous positions, then</p> <p>3 the new positions were opened on the market</p> <p>4 or for external candidates. I don't know if</p> <p>5 I answered your question.</p> <p>6 Typically, yes, in that environment it</p> <p>7 was sort of, in the opening we were recalling</p> <p>8 our former employees or the Plaza's former</p> <p>9 employees to their preexisting positions.</p> <p>10 And the new positions as far as new units,</p> <p>11 new outlets were open to the market. Once</p> <p>12 the colleagues proved themselves, they were</p> <p>13 obviously moving forward, then the normal</p> <p>14 recruitment started. It was a unique process</p> <p>15 with the recalled colleagues for the first</p> <p>16 few months.</p> <p>17 Q Do you know who Liam Flanagan is?</p> <p>18 A I know the name. I recognize the</p> <p>19 name. I don't know. I don't remember him</p> <p>20 specifically.</p> <p>21 Q I want to draw your attention to the</p> <p>22 document identified as P7. Please let us</p> <p>23 know after both of you have found the</p> <p>24 document.</p> <p>25 A P7, yes.</p>

<p>1 Reus 2 MR. MC LANE: Hold on. 3 Q Do you recognize the document that's 4 been identified as P7? 5 A To the extent of receiving it 6 yesterday, I mean, it looks like an 7 employment letter, but I have never seen it 8 before other than when it arrived yesterday. 9 Q Do you know who David C. Jones is? 10 A No. 11 Q You were involved in the hiring of 12 bartenders for the Plaza when it reopened on 13 or around early 2008? 14 A Yes. 15 Q Can you please describe the efforts 16 that were made to recruit bartenders? 17 A Certainly, when requisitions are 18 posted, it could be newspaper ads, it could 19 be online, obviously the Fairmont website 20 would be used. We have an internal -- we 21 have a talent scout, it is an internal 22 referral program so existing employees of the 23 hotel can refer new people that they know for 24 employment at the hotel. 25 It is a way to advertise internally,</p>	<p>Page 29</p> <p>1 Reus 2 committee member basically. 3 Then we would come back, reference 4 checks and make an offer to the person if all 5 of that was successful. 6 Q Do you know who Robert Kenyon is? 7 A No, the name is familiar, I don't 8 remember him. 9 Q How about Prather Remm? 10 A Again, the name is familiar. I could 11 tell you she was a bartender but I don't 12 remember her specifically. 13 Q How about Heather Buesing? 14 A Heather I remember. 15 Q Did you interview her? 16 A I don't remember interviewing her, but 17 I interviewed most of them so one can assume 18 I would have interviewed her. 19 Q Do you know what her background was 20 prior to interviewing her? 21 A I don't remember at this stage, no. 22 Q How about Laura Swetzer? 23 A I remember Laura, Laura I remember. 24 Q Did you interview Laura? 25 A Again, I don't remember interviewing</p>
<p>Page 30</p> <p>1 Reus 2 basically. There is a financial reward for 3 them if the person is hired. That's for one 4 of the employees to get new candidates, once 5 they come in they are screened for experience 6 basically. 7 In the case of bartenders, I would 8 screen their CVs, look for bartending 9 experience. The people that did have 10 bartending experience I would then forward on 11 to the department managers depending on the 12 department. I guess in this case for the 13 bars, it would be to the beverage manager, 14 Anthony Evangelista, Carlos Bueno would 15 obviously interview them the first screening 16 interview was actually done by the department 17 managers, the food and beverage managers. 18 If that interview went successfully, 19 they would come back to me for the structured 20 Fairmont interview which is of the Fairmont 21 selection interview and then if that was 22 successful I would forward it back for an 23 executive committee member to interview which 24 was typically Carlos. It may have been the 25 GM in some cases, it may have been Rajan, any</p>	<p>Page 32</p> <p>1 Reus 2 Laura, but it can be assumed because I 3 interviewed a majority of them. 4 Q You stated earlier that you remember 5 Carlos Rivera; is that right? 6 MR. MC LANE: Objection to 7 form. I am not sure she said that. 8 A I remember the name, I don't remember 9 the individual. 10 Q Give me a few minutes, I need to look 11 at my papers for a second. I will go off the 12 record. 13 A All right. 14 (Brief recess was taken.) 15 Q I have a few more questions. I would 16 like to draw your attention to the document 17 that's been marked for identification as P13. 18 A Okay. 19 Q Do you have it? 20 MR. MC LANE: Give me a minute. 21 I've got it. 22 Q Do you recognize the document that's 23 been marked for identification as P13? 24 A Yes, to the extent of having received 25 it yesterday, yes.</p>